IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 143 of 2001

AND

COMPANY PETITION NO. 144 OF 2001

AND

COMPANY PETITION NO.145 OF 2001.

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT AMBUJA BIOTECHNOLOGIESLTD.

Versus

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Appearance:

1. COMPANY PETITION No. 143 of 2001

MRS SWATI SOPARKAR for Petitioner No. 1

..... for Respondent No. 1

CORAM : MR.JUSTICE N.G.NANDI

Date of decision: 29/10/2001

COMMON (ORAL) JUDGEMENT

1. These are the petitions filed by three companies viz. Jupiter Infosoft Limited, Gujarat Ambuja Biotechnologies Limited (the Transferor Companies) and Jupiter Corporate Services Limited (the Transferee Company) for sanction of a scheme of amalgamation of the two Transferor companies with Jupiter Corporate Services Limited, the Transferee Company under Section 391 read with Section 394 of the Companies Act, 1956.

2. The Transferor Companies are closely held public limited companies. They were promoted to undertake different activities ranging from Information technology to Soya extraction. They have also undertaken the investment activities. However, due to cost overruns they could not implement some of the projects. The Transferee Company was promoted to undertake corporate services. It undertakes both financial and management consultancy jobs. All the companies belong to the same group of management. The amalgamation is proposed to achieve synergic advantages and make the amalgamated company be more focused in the area of Information and technology. The petitions give details of the advantages that would flow by virtue of the amalgamation of these companies.

3. The meetings of the shareholders of all the companies were dispensed with in view of the consent letters approving the scheme being on record. The meetings of the secured and unsecured creditors of the Transferor Company were also not required as there are no secured creditors of any of the Transferor Companies. The single unsecured creditor had given his consent in writing which was placed on record. Hence the meetings of the creditors of the Transferor companies were dispensed with.

4. After the petitions were admitted they were duly advertised in the newspapers and the publication in the Government Gazette was dispensed with as directed in the order dated 27.7.2001. No one has come forward with any objections to the said petitions even after the publication.

5. Notice of the petitions has been served upon the Central Government and Smt. P.J.Davawala, Standing Counsel and Shri Dhirubhai Patel, Senior Central Government Counsel appear for the Central Government. Smt. Davawala has informed the Court and placed on record the letter from the Registrar of Companies of Gujarat dated 30.8.2001 indicating that the Central Government does not propose to object to the proposed scheme of compromise and arrangement.

6. Notice of the petitions of the Transferor Companies have also been served upon the Official Liquidator as required under 2nd proviso to Section 394(1) of the Act and the Official Liquidator has filed his Report dated 18.10.2001 stating that the affairs of the Transferor Companies have not been conducted in a manner prejudicial to its members or to public interest. At the same time, the Chartered Accountant appointed by the Official Liquidator has made certain observations about the procedural lapses in the past. The company has replied to these observations. The Official Liquidator has placed on record the copy of reply filed by the Company to the objections raised by the Chartered Accountant in his report. The same is kept on record. It is observed that the present judgement will not come in the way of any legal actions, if any initiated or to be initiated by any appropriate authorities against the company with regards to such procedural lapses.

7. In view of this, there is no reason to withhold sanction to the scheme of amalgamation on this ground. However, to clarify that as held by this Court in Company Petition Nos. 17 and 18 of 1996, the present order of amalgamation will not absolve any of the Transferor Companies or its directors or employees from the liabilities, if any, for breach of any law which might have been committed before this order of Amalgamation, nor will this order absolve the Transferee Company from the liability to pay stamp duty in accordance with law.

8. I have heard Smt. Swati Saurabh Soparkar, learned Advocate for the petitioner Companies. Having gone through the petitions I am satisfied that amalgamation would be in the interest of the companies and their members. Prayers in terms of paragraph 15(A) of all the Co. petitions are granted.

9. The petitions are disposed of accordingly. So far as the costs to be paid to the Central Government Standing Counsel is concerned, I quantify the same at Rs.2,500/- per petition. The same may be paid to the

learned advocate Smt. P.J.Davawala for the Transferor Companies and Shri Dhirubhai Patel for the Transferee Company.

(N.G.Nandi,J.)

(vipul)